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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/758,478	01/11/2001	Dale C. Gledhill	03411.006	9341

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EXAMINER

CHIANG, JACK

ART UNIT	PAPER NUMBER
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2642

DATE MAILED: 05/30/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/758478

Applicant(s)

D. Gledhill

Examiner

J. Chiang

Group Art Unit

2642

#5

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

Period for Response

A SHORTENED STATUTORY PERIOD FOR RESPONSE IS SET TO EXPIRE -3- MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a response be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for response specified above is less than thirty (30) days, a response within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for response is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to respond within the set or extended period for response will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

- ☒ Responsive to communication(s) filed on 1-11-01.
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 1-19 is/are pending in the application.
- Of the above claim(s) _____ is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☒ Claim(s) 1-19 is/are rejected.
- ☐ Claim(s) _____ is/are objected to.
- ☐ Claim(s) _____ are subject to restriction or election requirement.

Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- ☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been received.
- ☐ received in Application No. (Series Code/Serial Number) _____.
- ☐ received in this national stage application from the International Bureau (PCT Rule 1.7.2(a)).

*Certified copies not received: _____.

Attachment(s)

- ☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____
- ☒ Notice of References Cited, PTO-892
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Interview Summary, PTO-413
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Other _____

Office Action Summary

CLAIMS

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-2, 6-7, 14-15, 19 are rejected under 35 U.S.C. 102(b) as being anticipated by Sutton (US 4961223).

Regarding claim 1, Sutton shows a shoulder rest comprising:

A first portion (10) for abutting against a user's shoulder;

Base portions (17, 18) for abutting against a handset (H);

A cut-out portion (between 17-18) between the base portions for allowing the shoulder rest to conform to different shaped handsets.

Regarding claim 7, Sutton shows a method of making a shoulder rest comprising:

Forming a first portion (10) for abutting against a user's shoulder;

Forming base portions (17, 18) for abutting against a handset (H);

Forming a cut-out portion (between 17-18) between the base portions for allowing the shoulder rest to conform to different shaped handsets.

Regarding claim 14, Sutton shows a shoulder rest comprising:

A first means (10) for abutting against a user's shoulder;

Base means (17, 18) for abutting against a handset (H);

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A concave means (between 17-18) between the base means for allowing the shoulder rest to conform to different shaped handsets.

Regarding claims 2, 6, 15, 19, Sutton shows:

The curved first portion (10);

The first and base portions (fig. 1) of the shoulder rest are part of a hollow body (between 17-18) of the shoulder rest.

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 3-4, 10-12, 16-17, 5, 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sutton in view of Castle et al. (US 6341163).

Regarding claims 3-4, 10-12, 16-17, 5, 18, Sutton shows a shoulder rest (see comments above).

Sutton differs from the claimed invention in that it does not show a strap and the claimed shape of the first portion.

However, Castle teaches providing a strap (i.e. 224, 110, 102) between the base portions. Castle further shows the first portion (see 400) narrows along a length from a front end to a narrowest portion and then widens again.

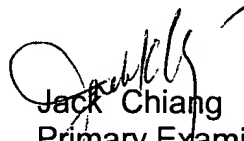
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Hence, it would have been obvious for one skilled in the art to modify Sutton with a strap and adhesive or Velcro as taught b Castle, such that to reinforce the engagement between the handset and the shoulder rest. Further, the shape of the first portion is a variation of Sutton as long as the shoulder rest can be comfortably rested on the user's shoulder.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jack Chiang whose telephone number is 703-305-4728. The examiner can normally be reached on Mon.-Fri. from 8:00 to 6:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ahmad Matar, can be reached on (703) 305-4731. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9314.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-4700.


Jack Chiang
Primary Examiner
Art Unit 2642